

AN ACT

relating to the confidentiality of certain information regarding victims of trafficking of persons and to the issuance and enforcement of protective orders to protect victims of trafficking of persons; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 1, Code of Criminal Procedure, is amended by adding Chapter 7B to read as follows:

CHAPTER 7B. PROTECTIVE ORDER FOR VICTIM OF TRAFFICKING OF PERSONS

Art. 7B.01. APPLICATION FOR PROTECTIVE ORDER. (a) A person who is the victim of an offense under Section 20A.02, Penal Code, a parent or guardian acting on behalf of a person younger than 18 years of age who is the victim of such an offense, or a prosecuting attorney acting on behalf of the person may file an application for a protective order under this chapter without regard to the relationship between the applicant and the offender or alleged offender.

(b) An application for a protective order under this chapter may be filed in a district court, juvenile court having the jurisdiction of a district court, statutory county court, or constitutional county court in:

(1) the county in which the applicant resides; or

(2) the county in which the offender or alleged offender resides.

1 Art. 7B.02. TEMPORARY EX PARTE ORDER. If the court finds
2 from the information contained in an application for a protective
3 order that there is a clear and present danger that the alleged
4 offender will traffic the applicant in a manner that constitutes an
5 offense under Section 20A.02, Penal Code, or that the victim will
6 otherwise suffer harm described by that section, the court, without
7 further notice to the offender or alleged offender and without a
8 hearing, may enter a temporary ex parte order for the protection of
9 the applicant or any other member of the applicant's family or
10 household.

11 Art. 7B.03. REQUIRED FINDINGS; ISSUANCE OF TEMPORARY
12 PRETRIAL PROTECTIVE ORDER. (a) At the close of a hearing on an
13 application for a protective order under this chapter, the court
14 shall find whether there are reasonable grounds to believe that the
15 applicant is the victim of an offense for which the subject of the
16 protective order has been charged under Section 20A.02, Penal Code,
17 and:

18 (1) is younger than 18 years of age; or
19 (2) regardless of age, is the subject of a threat that
20 reasonably places the applicant in fear of further harm from the
21 alleged offender.

22 (b) If the court finds reasonable grounds to believe that
23 the applicant is the victim of an offense for which the subject of
24 the protective order has been charged under Section 20A.02, Penal
25 Code, and is younger than 18 years of age, or regardless of age, the
26 subject of a threat that reasonably places the applicant in fear of
27 further harm from the alleged offender, the court shall issue a

1 temporary protective order that includes a statement of the
2 required findings, to be effective until the date the alleged
3 offender is convicted or acquitted, or until the date on which the
4 case involving the offense under Section 20A.02, Penal Code, is
5 finally disposed.

6 Art. 7B.04. REQUIRED FINDINGS; ISSUANCE OF POST-TRIAL
7 PROTECTIVE ORDER. (a) At the close of a hearing on an application
8 for a protective order under this chapter, the court shall find
9 whether there are reasonable grounds to believe that the applicant
10 is the victim of an offense for which the subject of the protective
11 order has been convicted under Section 20A.02, Penal Code, and:

12 (1) is younger than 18 years of age; or

13 (2) regardless of age, is the subject of a threat that
14 reasonably places the applicant in fear of further harm from the
15 alleged offender.

16 (b) If the court finds reasonable grounds to believe that
17 the applicant is the victim of an offense for which the subject of
18 the protective order has been convicted under Section 20A.02, Penal
19 Code, and is younger than 18 years of age, or regardless of age, the
20 subject of a threat that reasonably places the applicant in fear of
21 further harm from the offender, the court shall issue a protective
22 order that includes a statement of the required findings.

23 Art. 7B.05. APPLICATION OF OTHER LAW. To the extent
24 applicable, except as otherwise provided by this chapter, Title 4,
25 Family Code, applies to a protective order issued under this
26 chapter.

27 Art. 7B.06. CONDITIONS SPECIFIED BY ORDER. (a) In a

1 protective order issued under this chapter, the court may:

2 (1) order the offender or alleged offender to take
3 action as specified by the court that the court determines is
4 necessary or appropriate to prevent or reduce the likelihood of
5 future harm to the applicant or a member of the applicant's family
6 or household; or

7 (2) prohibit the offender or alleged offender from:

8 (A) communicating directly or indirectly with
9 the applicant or any member of the applicant's family or household
10 in a threatening or harassing manner;

11 (B) going to or near the residence, place of
12 employment or business, or child-care facility or school of the
13 applicant or any member of the applicant's family or household;

14 (C) engaging in conduct directed specifically
15 toward the applicant or any member of the applicant's family or
16 household, including following the person, that is reasonably
17 likely to harass, annoy, alarm, abuse, torment, or embarrass the
18 person; and

19 (D) possessing a firearm, unless the alleged
20 offender is a peace officer, as defined by Section 1.07, Penal Code,
21 actively engaged in employment as a sworn, full-time paid employee
22 of a state agency or political subdivision.

23 (b) In an order under Subsection (a)(2)(B), the court shall
24 specifically describe each prohibited location and the minimum
25 distance from the location, if any, that the offender or alleged
26 offender must maintain. This subsection does not apply to an order
27 with respect to which the court has received a request to maintain

1 confidentiality of information revealing the locations.

2 (c) In a protective order, the court may suspend a license
3 to carry a concealed handgun issued under Section 411.177,
4 Government Code, that is held by the offender or alleged offender.

5 Art. 7B.07. WARNING ON PROTECTIVE ORDER. (a) Each
6 protective order issued under this chapter, including a temporary
7 ex parte order, must contain the following prominently displayed
8 statements in boldfaced type, capital letters, or underlined:

9 "A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR
10 CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN
11 JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

12 "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS
13 ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY
14 PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS
15 VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT
16 UNLESS A COURT CHANGES THE ORDER."

17 "IT MAY BE UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE
18 OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED
19 IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY
20 OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO
21 POSSESS A FIREARM OR AMMUNITION."

22 (b) Each protective order issued under this chapter, except
23 for a temporary ex parte order, must contain the following
24 prominently displayed statement in boldfaced type, capital
25 letters, or underlined:

26 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED
27 BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY

1 CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT
2 RESULTS IN A SEPARATE OFFENSE MAY BE PROSECUTED AS A SEPARATE
3 OFFENSE IN ADDITION TO A VIOLATION OF THIS ORDER."

4 Art. 7B.08. DURATION OF POST-TRIAL PROTECTIVE ORDER. (a) A
5 protective order issued under Article 7B.04 may be effective for
6 the duration of the lives of the offender and victim as provided by
7 Subsection (b), or for any shorter period stated in the order. If a
8 period is not stated in the order, the order is effective until the
9 second anniversary of the date the order was issued.

10 (b) A protective order issued under Article 7B.04 may be
11 effective for the duration of the lives of the offender and victim
12 only if the court finds reasonable cause to believe that the victim
13 is the subject of a threat that reasonably places the victim in fear
14 of further harm from the alleged offender.

15 (c) A victim who is 18 years of age or older or a parent or
16 guardian acting on behalf of a victim who is younger than 18 years
17 of age may file at any time an application with the court to rescind
18 the protective order.

19 (d) To the extent of any conflict with Section 85.025,
20 Family Code, this article prevails.

21 SECTION 2. Title 1, Code of Criminal Procedure, is amended
22 by adding Chapter 57D to read as follows:

23 CHAPTER 57D. CONFIDENTIALITY OF IDENTIFYING INFORMATION OF VICTIMS
24 OF TRAFFICKING OF PERSONS

25 Art. 57D.01. DEFINITIONS. In this chapter:

26 (1) "Name" means the legal name of a person.

27 (2) "Pseudonym" means a set of initials or a

1 fictitious name chosen by a victim to designate the victim in all
2 public files and records concerning the offense, including police
3 summary reports, press releases, and records of judicial
4 proceedings.

5 (3) "Public servant" has the meaning assigned by
6 Section 1.07(a), Penal Code.

7 (4) "Victim" means a person who is the subject of:

8 (A) an offense under Section 20A.02, Penal Code;

9 or

10 (B) an offense that is part of the same criminal
11 episode, as defined by Section 3.01, Penal Code, as an offense under
12 Section 20A.02, Penal Code.

13 Art. 57D.02. CONFIDENTIALITY OF FILES AND RECORDS. (a) The
14 office of the attorney general shall develop and distribute to all
15 law enforcement agencies of the state a pseudonym form to record the
16 name, address, telephone number, and pseudonym of a victim.

17 (b) A victim may choose a pseudonym to be used instead of the
18 victim's name to designate the victim in all public files and
19 records concerning the offense, including police summary reports,
20 press releases, and records of judicial proceedings. A victim who
21 elects to use a pseudonym as provided by this article must complete
22 a pseudonym form developed under this article and return the form to
23 the law enforcement agency investigating the offense.

24 (c) A victim who completes and returns a pseudonym form to
25 the law enforcement agency investigating the offense may not be
26 required to disclose the victim's name, address, and telephone
27 number in connection with the investigation or prosecution of the

1 offense.

2 (d) A completed and returned pseudonym form is confidential
3 and may not be disclosed to any person other than a defendant in the
4 case or the defendant's attorney, except on an order of a court of
5 competent jurisdiction. The court finding required by Subsection
6 (g) is not required to disclose the confidential pseudonym form to
7 the defendant in the case or to the defendant's attorney.

8 (e) If a victim completes and returns a pseudonym form to a
9 law enforcement agency under this article, the law enforcement
10 agency receiving the form shall:

11 (1) remove the victim's name and substitute the
12 pseudonym for the name on all reports, files, and records in the
13 agency's possession;

14 (2) notify the attorney for the state of the pseudonym
15 and that the victim has elected to be designated by the pseudonym;
16 and

17 (3) maintain the form in a manner that protects the
18 confidentiality of the information contained on the form.

19 (f) An attorney for the state who receives notice that a
20 victim has elected to be designated by a pseudonym shall ensure that
21 the victim is designated by the pseudonym in all legal proceedings
22 concerning the offense.

23 (g) A court of competent jurisdiction may order the
24 disclosure of a victim's name, address, and telephone number only
25 if the court finds that the information is essential in the trial of
26 the defendant for the offense or the identity of the victim is in
27 issue.

1 (h) Except as required or permitted by other law or by court
2 order, a public servant or other person who has access to or obtains
3 the name, address, telephone number, or other identifying
4 information of a victim younger than 18 years of age may not release
5 or disclose the identifying information to any person who is not
6 assisting in the investigation, prosecution, or defense of the
7 case. This subsection does not apply to the release or disclosure
8 of a victim's identifying information by:

9 (1) the victim; or

10 (2) the victim's parent, conservator, or guardian,
11 unless the victim's parent, conservator, or guardian allegedly
12 committed the offense described by Article 57D.01(4).

13 Art. 57D.03. OFFENSE. (a) A public servant with access to
14 the name, address, or telephone number of a victim 18 years of age
15 or older who has chosen a pseudonym under this chapter commits an
16 offense if the public servant knowingly discloses the name,
17 address, or telephone number of the victim to any person who is not
18 assisting in the investigation or prosecution of the offense or to
19 any person other than the defendant, the defendant's attorney, or
20 the person specified in the order of a court of competent
21 jurisdiction.

22 (b) Unless the disclosure is required or permitted by other
23 law, a public servant or other person commits an offense if the
24 person:

25 (1) has access to or obtains the name, address, or
26 telephone number of a victim younger than 18 years of age; and

27 (2) knowingly discloses the name, address, or

1 telephone number of the victim to any person who is not assisting in
2 the investigation or prosecution of the offense or to any person
3 other than the defendant, the defendant's attorney, or a person
4 specified in an order of a court of competent jurisdiction.

5 (c) It is an affirmative defense to prosecution under
6 Subsection (b) that the actor is:

7 (1) the victim; or

8 (2) the victim's parent, conservator, or guardian,
9 unless the victim's parent, conservator, or guardian allegedly
10 committed the offense described by Article 57D.01(4).

11 (d) An offense under this article is a Class C misdemeanor.

12 SECTION 3. Section 25.026, Tax Code, is amended to read as
13 follows:

14 Sec. 25.026. CONFIDENTIALITY OF CERTAIN ~~[VIOLENCE]~~ SHELTER
15 CENTER AND SEXUAL ASSAULT PROGRAM ADDRESS INFORMATION. (a) In
16 this section:

17 (1) "Family violence shelter center" has the meaning
18 assigned by Section 51.002, Human Resources Code.

19 (2) "Sexual assault program" has the meaning assigned
20 by Section 420.003, Government Code.

21 (3) "Victims of trafficking shelter center" means a
22 program that:

23 (A) is operated by a public or private nonprofit
24 organization; and

25 (B) provides comprehensive residential and
26 nonresidential services to victims of trafficking of persons under
27 Section 20A.02, Penal Code.

1 (b) Information in appraisal records under Section 25.02 is
2 confidential and is available only for the official use of the
3 appraisal district, this state, the comptroller, and taxing units
4 and political subdivisions of this state if the information
5 identifies the address of a family violence shelter center, ~~[or]~~ a
6 sexual assault program, or a victims of trafficking shelter center.

7 SECTION 4. Not later than October 1, 2011, the office of the
8 attorney general shall develop and distribute to all law
9 enforcement agencies of the state a pseudonym form to record the
10 name, address, telephone number, and pseudonym of a victim as
11 required by Article 57D.02, Code of Criminal Procedure, as added by
12 this Act.

13 SECTION 5. This Act takes effect September 1, 2011.

H.B. No. 2329

David Newhust

President of the Senate

Joe Straus

Speaker of the House

I certify that H.B. No. 2329 was passed by the House on May 6, 2011, by the following vote: Yeas 129, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2329 on May 27, 2011, by the following vote: Yeas 139, Nays 0, 2 present, not voting.

Robert Hanay

Chief Clerk of the House

I certify that H.B. No. 2329 was passed by the Senate, with amendments, on May 24, 2011, by the following vote: Yeas 30, Nays 0.

Patsy Saw

Secretary of the Senate

APPROVED: 17 JUN '11

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

4pm O'CLOCK

JUN 17 2011

Boyd R. Davis

Secretary of State